

MEETING SUMMARY

FIRE ISLAND NATIONAL SEASHORE OFF-ROAD DRIVING REGULATIONS NEGOTIATED RULEMAKING ADVISORY COMMITTEE SESSION V DAY TWO

**August 22, 2003
SALTAIRE FIRE HOUSE, FIRE ISLAND, NY**

Attendees: See attached attendance list of Principal Representatives, Alternates, Technical Advisors, and individuals who provided public comment.

Final Consensus: The Fire Island Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations reached Final Consensus on a package of agreements during this last of five Committee sessions. This occurred during the final hour of the Committee meeting after reviewing the language of each provision. The Final Consensus Agreement was forwarded to all Committee Representatives on 25 August 2003 and is attached to this draft and will be appended to the final Meeting Summary.

Review of Draft Agenda, Framework and Principles of the Negotiation Process, Final Consensus Process

The final meeting of the Fire Island Negotiated Rulemaking Advisory Committee for Off-Road Driving Regulations began at approximately 9:30 AM with introductory remarks by the Mediators including a review of the consensus agreement Framework and Principles of Regulation (adopted by the Committee on July 26-27, 2002). The Mediators stated that the goal of this meeting is to achieve final consensus on as many items as possible.

The Mediators reviewed the steps in the Committee's consensus process. The Committee had previously reached Tentative Consensus on a number of provisions of the draft Consensus Agreement. After the Committee has developed Tentative Consensus on as many provisions as possible, the Mediators will ask if there is any dissent from going to Final Consensus on the package of agreements. To the extent the Committee reaches Final Consensus, NPS will use those agreements as the basis for its proposed regulations unless changes are made at the direction of the Office of Management and Budget, the Fish and Wildlife Service pursuant to the Endangered Species Act or the President. If NPS is directed to make such changes, it will notify the Committee of the changes and reasons for those changes.

The Final Consensus Agreement reached during this session covers many but not all issues discussed during this Committee's work. NPS will use the items of Final Consensus as the basis for draft regulations on those points and will circulate the draft language to Committee representatives to check for consistency with the Final Consensus Agreement. After the Committee concurs that the proposed draft regulation language is consistent with the Final Consensus Agreement, NPS will go forward with the public notice and comment process

including publication in the Federal Register. Committee member organizations and their representatives will not comment negatively on the consensus-based language during the rulemaking. Committee members and representatives retain their right to comment negatively on those aspects of the proposed regulations that are not based on Final Consensus.

The Mediators reviewed the evolution of the current revised Draft Consensus Agreement dated August 20, 2003, noting that the document is a product of Committee discussions, subcommittee deliberations and proposals from individual Committee representatives.

Identify Areas of Agreement and Disagreement

The Mediators prepared a table listing all sections of the revised Draft Consensus Agreement dated 20 August 2003 which was projected onto a screen. For each section, Committee representatives indicated if they could live with the provision as written. (The provisions that were acceptable as written were set aside until later in the meeting when all items of Tentative Consensus were reviewed in detail prior to Final Consensus.) For the draft provisions that were not yet acceptable, Committee representatives indicated whether the necessary changes were only for clarification or if substantive issues needed to be resolved. During the balance of the meeting, the Committee worked on the areas of disagreement, resolving many before adopting the Final Consensus Agreement package.

Discuss Areas for Resolution / Identify Areas of Consensus

Please refer to the attached Final Consensus Agreement for the final disposition of areas of agreement.

Areas of Disagreement Where No Consensus Was Reached

Sections of the revised Draft Consensus Agreement dated 20 August 2003 where no consensus was reached are listed below in italics. Comments and unresolved issues follow each section in bulleted fashion.

Are permits issued to individuals, organizations, or vehicles?

The outstanding issue is with regard to whether the Park would issue fleet permits to official vehicles. See also section: *How will categories of permits be defined and how many permits will be granted to each category* on Page 3, below.

How can the incorporated municipalities and the Park best coordinate the administration of the permitting system?

Consensus was not reached on establishing a Fire Island Transportation Council to help provide coordination and communication among the various entities concerned about managing driving on Fire Island.

- The dissenting town's representatives explained that the proposed Council was not necessary and that coordination could take place without establishing a new group.
- Whether or not this type of entity is created through this Negotiated Rulemaking process does not prevent it from developing in the future.
- The Council is critical to the transportation issue. If the assumption is that there will be no Council and there will be a status quo, this is not the case. These are community issues and there can be many positive results from such a Council and long-range planning.
- The Council could provide a forum to identify issues, including issues where abuses were observed and consider how to address these matters
- Regulations must be adopted by each municipality for the permit system to be effective and coordinated. The case for inter-governmental cooperation will be stronger if made by residents and government officials together with representatives of the Council.
- Council member(s) should be invited to attend the Law Enforcement Council meetings to share information.
- Some type of broad-based committee should go forward from this process; Constructive communication has been established through this process and should be maintained.

Are there geographic zones of the Seashore where the National Park Service will allow driving on the ocean front beach?

Eastern Zone:

- There was disagreement with regard to the driving provisions for the eastern zone, extending from the dune crossing at Watch Hill to the western boundary of Smith Point County Park due to differing views on an effective beach closure notice system. Regarding ice-over conditions, it was noted that there was no system in the past and abuses have occurred. The intent of this was to allow access to provide critical services to homes in ice-over conditions. The exceptions were made on a case-by-case basis which puts the onus on the Park to make daily decisions depending on conditions.

How will categories of permits be defined and how many permits will be granted to each category?

- While the Committee did reach consensus on the definitions of all permit categories and the number of permits to be granted in most categories, consensus was not reached on the

number of Official Business permits due to a lack of sufficient information to determine the necessary number and whether a fleet permit could be considered.

Are there seasons and times when the National Park Service will allow driving?

Year-Round Residents: With regard to the driving times and season for year-round residents, the following options were considered, with no consensus reached:

- Year-round residents may drive from September 15 through June 15 with up to two trips per vehicle per day. From Memorial Day weekend until June 15, residents will not drive on weekends (9 PM Friday evening until 12:01 AM Monday morning). From May 1 until Memorial Day and from September 15 until the Tuesday after Columbus Day, residents will not drive between 9 AM and 6 PM on all Saturdays, Sundays, and national holidays.
- Year-round residents may drive from Monday following Labor Day to June 15. On the shoulder season from Monday following Labor Day through the Sunday of Columbus Day and from the Friday before Memorial Day until June 15, weekend restrictions of no driving after 9 AM and before 6 PM. These times are acceptable as long as there is adequate ferry service.
- The Thursday before Memorial Day until the Tuesday after Labor Day no driving. From 4/15 until the Thursday before Memorial Day and from Tuesday after Labor Day through the Tuesday after Columbus Day, during that period there is no weekend driving, limited weekday driving. In the winter season, from the Tuesday after Columbus Day until April 14, limited inter-community driving. Limited to be defined. Monitoring facilities for limited driving at key points would be established. Intercommunity driving would be the responsibility of local and county officials.
- Weekend Proposal: Weekend Driving would be from Friday 9 PM until 6 PM Sunday Night.
- “Bridge Option” between two options above: The Thursday before Memorial Day until the 9/15 no driving. From 4/15 until Tuesday after Columbus Day, during that period there is no weekend driving (Define Weekend Driving). Limited (To Be Defined – number of trips, monitoring) intercommunity driving from fall through Spring.
- It was noted that the options should address the purpose of the date(s) and times set forth rather than arbitrary restrictions and that consistent terminology regarding dates is needed.

Contracting and Business: With regard to the driving times and seasons for Contracting and Business, the following options were considered, with no consensus reached:

- Contractors may drive from the last Monday in October through the second Friday in April. On-Island contractors are allowed two trips per day and Off-Island contractors are allowed 1 trip per day.
- Year-Round Contractors can drive the same as Year-Round residents.

- Contractors may drive from the Tuesday after Columbus Day until May 1. Until the Tuesday after Columbus Day until the last Monday in October, no weekend driving. Off and On Island contractors may drive two trips per day.
- Driving times to be determined via adequate ferry service.

Official Business: With regard to the driving times and seasons for Official Business, the following options were considered, with no consensus reached:

- Official Business vehicles may drive year-round with up to two trips per vehicle per day for official and necessary business only. These drivers will abide by no weekend driving (9 PM Friday evening until 12:01 AM Monday morning) except for emergencies and restoration of services. In addition, official business entities will work with the Park and municipalities to seek ways to reduce driving to the greatest extent possible.

Will there be a sunset clause for essential services and utilities?

- Until Town, State, and Federal agreements are in place, there would be no sunset clause. Once facilities are operational and alternate routes are complete, essential service driving can be further restricted or sunsetted.

What size of vehicles is allowed to drive within the Seashore?

- No consensus was reached with regard to the size and weight limit for permitted vehicles.

Can I drive an ATV or engine-powered cart on the oceanfront beach?

- Consensus was not reached with regard to this issue. The possibility was discussed as to whether utilities might drive with ATVs if it were part of a plan to reduce driving of larger vehicles.

What will permits look like?

Consensus was not reached with regard to this issue. In addition to the proposal set forth in the Draft Consensus Agreement dated 20 August 2003, the following additional suggestions emerged:

- Family or organizational name should be included on the permit;
- All administrative cost calculations will be available to permit holders and the public upon request.

What technologies will be used to assist with managing driving on the Seashore?

This proposed section was deleted as it was viewed by some as an administrative matter not to be included in the regulations.

What about passengers in permitted vehicles?

This idea was proposed for the first time during this meeting. "Passengers are permitted in vehicles for those vehicles that have valid permits within their allotted driving times, dates, and driving zones." Consensus was not reached on this proposal.

- There is a need to transport employees. While they should travel by ferry there should be an allowance that empty seats in vehicles could transport them as well, providing they are legal passengers - with seats, seatbelts and the like. If you are legally allowed to be in a vehicle, you should be allowed to transport employees.

Public Comment

The Mediators opened the public comment period and explained that it is an opportunity to address the Committee. The groundrules and time limits were reviewed. Note that the Public Comment Period occurred mid-way through the meeting, but appears at the end of this meeting summary.

Summary of Verbal Comments

(Note that these are paraphrased summaries and not a verbatim record of comments. The attending public was invited to submit written comments to the Superintendent. Also, the public was invited to provide written remarks to the Mediators before the end of this meeting for inclusion in the Meeting Summary):

Buddy Schumacher, Chief of the Kismet Fire Department, noted that despite the large population on Fire Island, there is not adequate ferry service to get to work. In addition, weekend restrictions are unacceptable for attending church services.

Judi Phelan, year-round resident of Kismet for 20 years and raising a family on Fire Island, stated that driving times are not adequate for the school schedule and extra-curricular activities for her children.

Vernon Henriksen, Suffolk County Fire Dept. Coordinator and member of the Fire Island School Board, stated that, while the school board creates its calendar around an abbreviated season, it still cannot accommodate families driving to school activities. In addition, there are no medical, postal, grocery services or water taxi in the off-season. If, as a result, the ambulance is

responding to a minor incident (e.g. ear infection), it will not be available for other real emergency situations (e.g. heart attack or other life-threatening situation).

Nancy Henriksen, year-round resident, stated that children's school activities and the ability to attend church services were being denied by the proposed driving regulations.

Harold Wait, part-time resident of Saltaire since the mid 1940's, suggested a market-based solution to make driving at least as expensive as using the ferry service. (Note: Mr. Wait also submitted written comments which appear below.)

Noel Fenstel of Saltaire stated that he will submit his comments in writing to the Park.

Deborah Zaffm, year-round resident of Kismet and Secretary of the FIYRRA, stated that some live on Fire Island by choice and some do not. There is not enough ferry service to co-exist with life on the mainland. Weekend driving cannot be stopped as people need to do errands and attend religious services. Year-round residents should receive concessions for ferry tickets. While people want services on the Island, they complain about the cost of those services, but do not recognize that it costs a lot to do business here.

Russ Phelan, year-round resident of Kismet since 1946, stated that he is surprised that the Draft Consensus Agreement does not include adequate ferry service. He also asked why permits are to be issued every year as this is expensive. Mr. Phelan further suggested that if a Fire Island resident's child goes to college, that child should be first on the wait-list for a permit.

Ardian Gill of Saltaire stated that, while he is sympathetic to the difficulties of participating in school children's activities and attending church services, the Seashore was not designed to create a suburb and there is no obligation to address those sorts of problems.

John Leitner of Saltaire noted that he would have preferred to be more involved in this negotiated rulemaking Committee, however, the times and locations (off-Island) of the meetings prevented him from doing so.

Edie Watts, Saltaire summer resident since 1931, stated that if you choose to live here and work on the mainland, it is reasonable that you adhere to the limitations. She also noted that it can be dangerous for pedestrians to walk on Lighthouse Road.

Geri DiCostanzo of Saltaire asked whether the Committee would address ferry service.

Patricia O'Shea of Saltaire since 1949 noted concern about erosion due to driving and stated that if ocean properties and sand are not protected everyone will eventually lose their homes. The core ecology of Fire Island must be preserved.

Bonnie Metcalf of Kismet reiterated the difficulty that Island children face in getting to their activities, stating that the more involved children are, the less likely they are to get into trouble. The current regulations are good, but need to be enforced.

Bob Chinker, Fair Harbor resident for 50 years, noted that his household has one permit, leaving him marooned when his wife goes to work. He stated that it is like going through a gauntlet to travel from his home.

Written Comments Submitted Before the End of the Meeting:

Buddy Schumacher, Chief of the Kismet Fire Department,

- While there are twice as many houses, each having twice as many amenities as 20 years ago, there are people asking for more limited driving and essentially an invisible infrastructure. "Drive" the fireman, carpenters and plumbers off the beach and there will be no services.

Linda Schumacher of Brightwater, NY

- If you expect fire protection and services and make regulations too difficult for people to be here, you will lose these services completely. There are more houses to protect, more people that need services, yet you seem not to want year-round service to be able to live a life just to attend to your needs.

Not signed:

- The "waiting list" needs to be for "bona fide" year-round residents, NOT for people who may want to live here.
- We are not wealthy people who have 2nd homes - People want to make Fire Island for the rich only.
- Enforce the regulations that are in place.
- I teach at night and you are taking the ability for me to earn a living.
- Contractors' businesses need to be addressed, especially on-island contractors/businesses.

Not signed:

- Someone made a point about Verizon trucks, not year-round residents.
- There is not adequate ferry service for someone to work and go to the mainland in the "shoulder season."
- If we are limited in intercommunity [travel], we cannot get our mail.

Not signed:

- Year-round residents need and should be someone who lives here, not someone who owns another home in NYC- says it's an office and can have the luxury to have two homes and can drive Thursday to Sunday for convenience.
- We need to do errands on the weekend.

- Part-time permits should be issued to children living full-time at home so as to not take away someone else's permit.

Harold and Nancy Wait of Saltaire:

The two greatest dangers to maintaining the island that all of us love are 1) beach erosion and 2) excessive vehicular traffic. There have been many proposals before this body to resolve the traffic problem. Although there have been agreements in some areas, there has been no overall resolution. The crux of the problem seems to us to revolve about a "need" to drive as contrasted to the "convenience" of driving. We propose, for your consideration, a market-based solution.

Nancy and I are no strangers to the traffic issue. Since 1996 we have encouraged this Village to tighten its regulations. Our suggestions have been received by Planning Boards and Traffic Committees, yet the Village has ignored its own Planning Board recommendations.

A market-based solution would soon sort out "need" versus "convenience." We envision a nominal number of free trips for year-round residents in a shortened driving season. Fees for trips in excess of this number would equal the cost of ferry service and parking, making driving at least as expensive as using the ferry. Contractors would similarly be charged for each trip except when weather curtailed ferry service.

The fees collected would probably be adequate for FINS, or an agency named by the NPS, to support the enforcement of regulations and perhaps to subsidize winter ferry service. This would seem to us more desirable than asking one of the highest paid police forces in the nation to enforce whatever driving regulations the Reg-Neg group may ultimately recommend.

Thank you for the opportunity to be heard.

Final Consensus Agreement

The Committee reviewed the items of Tentative Consensus and worked out agreements on several additional provisions. The Mediators checked if the Committee was ready for the question whether there is any objection to reaching Final Consensus on the package of agreements. After some additional discussion, the Committee adopted the Final Consensus Agreement.

During the last part of this meeting, various representatives made closing remarks, with Barry Sullivan bringing the session to a close expressing his appreciation for the good work and dedication of Committee participants.

Adjourn

The final session of the Fire Island National Seashore Off-Road Driving Regulations Negotiated Rulemaking Advisory Committee adjourned at approximately 5:45 PM.

Documents Distributed During the Meeting*

	Title	Source
1.	Draft Revised Consensus Agreement (20 August 2003)	The Mediators
2.	Framework and Principles of the Negotiation Process Adopted by Consensus of the Committee	The Mediators
3.	Fire Island Transportation Council Considerations Revised: August 20, 2003	NPS
4.	Groundrules for Public Comment	The Mediators
5.	Response of Carting Stakeholder Group to Draft Consensus Agreement As Prepared by Mediators Dated August 20, 2003	The Carters

*All documents distributed during meetings of the Negotiated Rulemaking Advisory Committee are available from:

Superintendent
National Park Service
Fire Island National Seashore
120 Laurel Street
Patchogue, NY 11772
631 289-4810

MEETING ATTENDANCE

August 22, 2003

<u>Name</u>	<u>Organization/Stakeholder Group</u>
PRINCIPAL REPRESENTATIVES	
Cannava, Ernest J.	Town of Islip
Clock, Forrest	On-Island Contractors
Farber, Laurie	Visitors
Gill, Anna Hannon	Village of Saltaire
Gillespie, Kevin	Fire Island Year-Round Residents
Goldhirsch, Suzy	West End Residents
Kassner, Jeffrey	Town of Brookhaven
Lund, John	East End Residents
Miller, Andrew	Village of Ocean Beach
Murray, Robert	Suffolk County Water Authority
Paradiso, Edward	Fire Island Law Enforcement Council
Read, Bill	Suffolk County Police Dept.
Reich, Walter C.	Island-Wide Stakeholders
Schwarz, Thomas	West End Residents
Stoddard, Jerry	Year Round/Seasonal Residents
Sullivan, Barry	National Park Service
Wikso, James	Off-Island Contractors

ALTERNATE REPRESENTATIVES

Beqaj, Sedat	Town of Islip
Boss, Walter	On-Island Contractors
Dobert, Ronald	Island-Wide Stakeholders
Hervey, Michael	Utility Companies
Jerome, Beverly	West End Residents
Kaufman, Luke	Ferry Companies
Seymour, James	Environmental Organizations
Thornberg, Beatrice	FI Year Round Residents
Valentine, Wayne	National Park Service
Vogel, Peter	Carters
Weinstein, Arthur	West End Residents
Zaccaro, John Jr.	Village of Saltaire
Zysman, Joe	Environmental Organizations

MEMBER ORGANIZATIONS/STAKEHOLDER GROUPS NOT REPRESENTED

Barge/Freight Companies
Fire Island Fire Chiefs Council

TECHNICAL ADVISORS

Papa, Steve	US Fish & Wildlife Service
-------------	----------------------------

NPS ADVISORS/STAFF

Lepore, Robin
Spirtes, David

DOI Office of Regional Solicitor
Superintendent, NPS FIIS

David Lucas of Verizon attended as an observer.

INDIVIDUALS WHO PROVIDED PUBLIC COMMENT

Judi Phelan
Vernon Henriksen
Nancy Henriksen
Noel Fenster
Deborah Zaffm
Russ Phelan
Ardian Gill
John Leitner
Edie Watts
Geri DiCostanzo
Patricia O'Shea
Bonnie Metcalf.
Bob Chinker
Buddy Schumacher
Linda Schumacher
Harold Wait
Nancy Wait